

ORIGINAL

STATE OF MINNESOTA  
SPECIAL REDISTRICTING PANEL  
A11-152

OFFICE OF  
APPELLATE COURTS

SEP 19 2011

FILED

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

Petitioners,

and

Kenneth Martin, Lynn Wilson, Timothy O'Brien, Irene Peralez, Josie Johnson, Jane Krentz, Mark Altenburg, and Debra Hasskamp, individually and on behalf of all citizens of Minnesota Similarly situated,

Plaintiff Intervenors,

and

Audrey Britton, David Bly, Cary Coop, and John McIntosh, Individually and on behalf of all citizens of Minnesota Similarly situated,

Plaintiff Intervenors,

vs.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota County Chief Election Officers,

Respondents/Defendants.

Defendant Robert Hiivala, Wright County Auditor, for his answer to the Complaint of the Martin Intervenors, states and alleges as follows:

1. Except as hereinafter admitted, qualified or otherwise responded to, denies each and every allegation of the Complaint.

2. State that Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 1 and 3 and therefore denies the same.

3. The allegations in paragraph 2 make legal conclusions and legal assertions to which no response is required.

4. Defendant admits the allegations in paragraphs 4 and 5 as to the individuals named and that they hold the positions described and that they have statutory duties related to elections, and the Court is referred to the official text of the statutory provisions the paragraph seeks to describe.

5. Defendant admits the allegation in the first sentence of paragraph 6. The second sentence in paragraph 6 make legal assertions to which no response is required.

6. The allegations in paragraphs 7, 8, and 9 make legal conclusions and legal assertions to which no response is required.

7. State that Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and therefore denies the same.

8. The allegations in paragraph 11 make legal conclusions and legal assertions to which no response is required.

9. As to paragraph 12, admits that Governor Mark Dayton vetoed the redistricting plans passed by the 2011 Minnesota Legislature, objects that the allegations lack foundation and call for speculation, and states that the allegations assert legal conclusion to which no response is required.

10. The allegations in paragraph 13 make legal assertions to which no response is required.

11. The allegations in paragraphs 14, 15, 16, 17, 18, and 19 legal conclusions and legal assertions to which no response is required. Defendant Hiivala further refers the Court to the official text of the constitutional provisions the paragraphs seeks to describe.

12. As to paragraph 20 the 2010 United States Census speaks for itself.

13. As to the allegations in paragraph 21, states that the 2010 United States Census speaks for itself. Defendant Hiivala further object that the allegations in paragraph 21 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegation in paragraph 21 assert legal conclusions to which no response is required.

14. As to the allegations in paragraph 22, states that Defendant Hiivala is without knowledge or information sufficient to form a belief as the residence of the Martin Intervenors. Defendant Hiivala further states that the allegation in paragraph 21 assert legal conclusions to which no response is required.

15. As to the allegations in paragraph 23, states that the 2010 United States Census speaks for itself. Defendant Hiivala further object that the allegations in

paragraph 21 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in paragraph 21 assert legal conclusions to which no response is required.

16. The allegations in paragraph 24 and 25 make legal conclusions and legal assertions to which no response is required.

17. Defendant Hiivala objects that allegations in paragraph 26 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in paragraph 26 make legal conclusions and legal assertions to which no response is required.

18. Defendant Hiivala objects that allegations in paragraph 27 lack foundation and call for speculation, and accordingly denies the same. Further Defendant Hiivala is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 and therefore denies the same.

19. The allegations in paragraphs 28, 29, 29(a), 29(b), 29(c), 29(d), 30, 31, 32, 33, 34, 35, and 36 make legal conclusions and legal assertions to which no response is required.

20. As to paragraph 37 the 2010 United States Census speaks for itself.

21. As to paragraph 38 the 2010 United States Census speaks for itself. Defendant Hiivala objects that allegations in paragraph 38 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in paragraph 38 make legal conclusions and legal assertions to which no response is required.

22. As to the allegations in paragraph 39, states that Defendant Hiivala is without knowledge or information sufficient to form a belief as the residence of the Martin Intervenors. Defendant Hiivala further states that the allegations in paragraph 39 assert legal conclusions to which no response is required.

23. As to paragraph 40 the 2010 United States Census speaks for itself. Defendant Hiivala objects that allegations in paragraph 40 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in paragraph 40 make legal conclusions and legal assertions to which no response is required.

24. The allegations in paragraphs 41, 42, and 43 make legal conclusions and legal assertions to which no response is required.

25. State that Defendant Hiivala is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 and therefore denies the same. Defendant Hiivala objects that allegations in paragraph 44 lack foundation and call for speculation, and accordingly denies the same.

26. State that the allegations in Paragraph 45 make legal assertions to which no response is required.

27. Objects that the allegations in Paragraphs 46, 46(a), 46(b), 46(c), 46(d), and 47, 48, 49 make legal conclusions and legal assertions to which no response is required.

## AFFIRMATIVE DEFENSES

28. Alleges that the Martin Intervenors' Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

29. Alleges affirmatively that Defendant Hiivala has no liability for claims pursuant to 42 U.S.C. §1983 as alleged in Martin Intervenors' Complaint, and further denies that it has any customs, practices or policies that violate any person's constitutional rights as alleged in Martin Intervenors' Complaint.

30. Alleges any other matter constituting an avoidance or affirmative defense to Martin Intervenors' Complaint.

31. Injuries or damages sustained by Plaintiffs, if any, were due to, caused by, contributed to, or brought about as the result of the conduct of third persons for whom this answering Defendant does not bear liability.

32. The Martin Intervenors' claims are not ripe because they have suffered no injury in fact.

WHEREFORE, Defendant asks for an Order of the Court as follows:

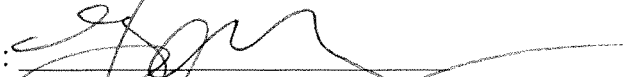
1. Dismissing the Martin Intervenors' Complaint and granting Defendant Hiivala judgment in its favor.

2. Awarding Defendant all costs, disbursements and attorney's fees pursuant to 42 U.S.C. § 1988.

3. For such other and further relief as this Court deems just and equitable.

THOMAS N. KELLY  
Wright County Attorney

Dated: September 14, 2011

By: 

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Attorney for Defendant Robert Hiivala,  
Wright County Auditor

### ACKNOWLEDGMENT

The undersigned acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties pursuant to M.S. 549.21, Subd. 2.

Dated: September 14, 2011



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